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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JAMES LAMONT MOORE,	Case No. 2:19-cv-02110-KJD-DJA
<div style="text-align: right;">Petitioner,</div>	ORDER
v.	
JERRY HOWELL, et al.,	
<div style="text-align: right;">Respondents.</div>	

Petitioner James Lamont Moore has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has responded to this court’s show-cause order (see ECF No. 7). The court has reviewed the petition pursuant to Habeas Rule 4, and respondents shall file a response.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

**IT IS THEREFORE ORDERED** that respondents shall file a response to the petition, including potentially by motion to dismiss, within **ninety (90) days** of service of the petition, with any requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule under the local rules. Any response filed shall comply with the remaining provisions below, which are entered pursuant to Habeas Rule 5.

1           **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents  
2 in this case shall be raised together in a single consolidated motion to dismiss. In other  
3 words, the court does not wish to address any procedural defenses raised herein either  
4 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the  
5 answer. Procedural defenses omitted from such motion to dismiss will be subject to  
6 potential waiver. Respondents shall not file a response in this case that consolidates  
7 their procedural defenses, if any, with their response on the merits, except pursuant to  
8 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If  
9 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall  
10 do so within the single motion to dismiss not in the answer; and (b) they shall  
11 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set  
12 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no  
13 procedural defenses, including exhaustion, shall be included with the merits in an  
14 answer. All procedural defenses, including exhaustion, instead must be raised by  
15 motion to dismiss.

16           **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents  
17 shall specifically cite to and address the applicable state court written decision and state  
18 court record materials, if any, regarding each claim within the response as to that claim.

19           **IT IS FURTHER ORDERED** that petitioner shall have **45 days** from service of  
20 the answer, motion to dismiss, or other response to file a reply or opposition, with any  
21 other requests for relief by respondents by motion otherwise being subject to the normal  
22 briefing schedule under the local rules.


23           **IT IS FURTHER ORDERED** that any additional state court record exhibits filed  
24 herein by either petitioner or respondents shall be filed with a separate index of exhibits  
25 identifying the exhibits by number. The CM/ECF attachments that are filed further shall  
26 be identified by the number of the exhibit in the attachment.  
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1           **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of **all**  
2 **pleadings and indices of exhibits only** in this case to the Clerk of Court, 400 S. Virginia  
3 St., Reno, NV, 89501, directed to the attention of "Staff Attorney" on the outside of the  
4 mailing address label. Additionally, in the future, all parties shall provide courtesy copies  
5 of any additional exhibits submitted to the court in this case, in the manner described  
6 above.

7           **IT IS FURTHER ORDERED** that the Clerk **shall file** petitioner's motion for  
8 appointment of counsel (ECF No. 1-3).

9           **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel  
10 (ECF No. 1-3) is **DENIED**.

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13           DATED: 18 March 2020.



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KENT J. DAWSON  
UNITED STATES DISTRICT JUDGE